

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Amy M. Wery,

Plaintiff,

vs.

NDDOCR, et al.

Defendants.

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**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 1:11-cv-023

Before the Court is Magistrate Judge Karen Klein's Report and Recommendation filed on August 28, 2012. See Docket No. 109. In the Report and Recommendation, Judge Klein makes the following recommendation:

It is **RECOMMENDED** that the County Defendants' motion for summary judgment (Doc. #50) be **GRANTED**, the State Defendants' motion for summary judgment (Doc. #77) be **GRANTED**, the County Defendants' motion to dismiss (Doc. #50) be found as **MOOT**, and Wery's amended complaint (Doc. #20) be **DISMISSED** with prejudice. It is also **RECOMMENDED** that the court find any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*.

See Docket No. 109, p. 29. Objections to the Report and Recommendation were due on or before September 10, 2012. No objections were filed.

The Court has carefully reviewed the Report and Recommendation, the relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 20) in its entirety and **ORDERS** as follows:

- 1) The motion for summary judgment (Docket No. 50) filed by defendants DWCR, SWMCC, Sean Bowen, Colby Braun, Don Hanel, Jessie Hauschild, Heather Luchi, DeeAnn Marsch, Gary Morel, Jo Rooks, Sandra Sund, and Angie Wanek is **GRANTED**;
- 2) The motion for summary judgment (Docket No. 77) filed by defendants NDDOCR, LeeAnn Bertsch, Terry Enzminger and Barb McGillvary is **GRANTED**;

- 3) The motion to dismiss (Docket No. 50) is found to be **MOOT**;
- 4) Wery's amended complaint (Docket No. 20) is **DISMISSED** with prejudice; and
- 5) That any appeal by Wery would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*.

IT IS SO ORDERED.

Dated this 17th day of September, 2012.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge
United States District Court